

EXHIBIT 1

INTRODUCTION

Respondent Building Industry Association of Central California Political Action Committee (“BIACC PAC” or “Respondent Committee”) is a state general purpose recipient committee sponsored by the Building Industry Association of Central California. At all relevant times, Respondent Stephen D. Madison, filed and signed campaign statements on behalf of Respondent BIACC PAC as committee treasurer.

This matter arose from self-reporting by Respondents on October 19, 2005, following notice to Respondents in May 2005 from the Secretary of State’s Office (“SOS”) of their failure to file campaign statements electronically. The Enforcement Division’s investigation confirmed that Respondents violated requirements under Political Reform Act (the “Act”)¹ for the filing of campaign statements and reports online or electronically and uncovered other violations.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents BIACC PAC and Stephen D. Madison failed to file electronically three semi-annual statements by the January 12, 2004 due date for the period July 1, 2003 through December 31, 2003, by the August 2, 2004 due date for the period January 1, 2004 through June 30, 2004, and by the January 31, 2005 due date for the period October 1, 2004 through December 31, 2004, in violation of Government Code Section 84605, subdivision (b).

COUNT 2: Respondents BIACC PAC and Stephen D. Madison failed to file in paper format and electronically a pre-election statement by the October 5, 2004 due date for the period July 1, 2004 through September 30, 2004, in violation of Government Code Sections 84200.7 and 84605, subdivision (b).

COUNT 3: Respondents BIACC PAC and Stephen D. Madison failed to electronically file three late contribution reports within 24 hours of making late contributions totaling \$4,000 by the October 20, 2004 due date, in violation of Government Code Section 84605, subdivision (b).

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 4: Respondents BIACC PAC and Stephen D. Madison failed to electronically file a late contribution report within 24 hours of making a late contribution totaling \$7,500 by the May 21, 2005 due date, in violation of Government Code Section 84605, subdivision (b).

SUMMARY OF LAW

Duty to File Campaign Statements and Reports

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed and improper practices may be inhibited. The Act therefore establishes a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” Under Section 82027.5, subdivision (b) a recipient committee is a state general purpose committee when it exists to support or oppose candidates or measures voted on in a state election, or in more than one county. Furthermore, under Section 82048.7, a general purpose recipient committee may be a sponsored committee.

Duty to File Semi-Annual and Pre-election Statements

Under Section 84200, subdivision (a), a general purpose recipient committee is required to file semi-annual statements for each year for the period ending June 30 and December 31. In addition to campaign statements required by Section 84200, committees are required to file pre-election statements as specified in Sections 84200.5 through 84200.8 of the Act. Pre-election statements for a November election for the period ending September 30 are due no later than October 5. (Section 84200.7.) The period covered by any statement begins on the day after the closing date of the last statement filed or January 1, if no previous statement has been filed. (Section 84205.)

Duty to File Late Contribution Reports

Under Section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must report the late contribution within 24 hours of making or receiving the contribution. Section 82036 defines “late contribution” as a contribution aggregating \$1,000 or more made to or received before an election but after the closing date of the last pre-election campaign statement that is required to be filed before the

election. The late contribution period covers the last 16 days before an election. (Sections 84200.7, 84200.8.)

Duty to File Reports Online

In 1997, the Legislature amended the Act to require committees that are significantly active on the state level to file their campaign statements electronically as well as on paper. When doing so, the Legislature specifically declared, as set forth in section 84601, subdivisions (b) and (c), that “public access to campaign disclosure information is a vital and integral component of a fully informed electorate” and that “[a]dvances in technology have made it viable for disclosure statements and reports to be filed online ... , thereby maximizing availability to the public.”

The Act therefore sets forth an online campaign disclosure program. One feature of this program is set forth in Section 84605, subdivision (b), which requires state general purpose committees to file campaign statements and reports online when contributions or expenditures reach \$50,000 or more. (Sections 84601, 84605.) Once a committee meets the initial threshold to file online or electronically, the committee must file all subsequent statements and reports online or electronically. (Section 84605, subd.(g).)

Liability of Committee Treasurers

Under Section 81004, subdivision (b), if a filer is an entity other than an individual, campaign statements and reports shall be signed and verified by a responsible officer of the entity or by an agent. Under Section 84100, Section 81004, subdivision (b), and Regulation 18427, subdivision (a), it is the duty of the committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5, 91006.)

SUMMARY OF FACTS

Respondent BIACC PAC is a state general purpose committee established in 1980. Respondents have been active in city, county and state elections. At all relevant times, Respondent Stephen D. Madison has been the person filing and signing the campaign statements as the committee’s treasurer.²

² As of April 19, 1991, persons listed as principal officers of the committee are Russ Harrison and Dennis Wilson. At all relevant times, no responsible officer of the sponsor as listed on its statement of organization verified the campaign statements filed as provided in Regulation 18419, subdivision (c)(4), in order to exclude the sponsor from the committee requirements of Section 82013. However, the sponsor is not separately charged as a Respondent. In addition, Edward P. Taczanowsky is shown on the Form 410 (Statement of Organization), as amended June 1, 1992, as the committee treasurer. However, as of July 1, 2003, only Stephen D. Madison has signed campaign statements on behalf of the committee as treasurer. Therefore, Mr. Taczanowsky is also not charged in this stipulation as a Respondent.

Respondent committee reached the \$50,000 contribution threshold specified at Section 84605, subdivision (b), during the period of July 1, 2003 through September 30, 2003.³ Since Respondent Committee received cumulative contributions totaling \$50,000 or more, Respondent Committee had an obligation to file all subsequent campaign statements and reports online or electronically. The committee was required to file electronically beginning with a late contribution made on October 27, 2003 and thereafter. (Section 84605, subd. (b).)

During the reporting period of July 1, 2003 through December 31, 2003, Respondents reported receiving contributions totaling \$4,100 and making expenditures totaling \$14,724. During the reporting period of January 1, 2004 through June 30, 2004, Respondents reported receiving contributions totaling \$4,550 and making expenditures totaling \$4,882.14. During the reporting period of July 1, 2004 through September 30, 2004, Respondents reported receiving contributions totaling \$6,000 and making expenditures totaling \$1,000. Finally, during the period October 1, 2004 through December 31, 2004, Respondents reported receiving contributions totaling \$6,750 and making expenditures totaling \$9,009.77.

By way of a letter dated May 19, 2005, from the California Secretary of State's Political Reform Division ("SOS"), Respondents were reminded of their obligations to file reports and statements online or electronically. The letter advised Respondents that the \$50,000 threshold had been met and therefore Respondent Committee had an obligation to file online or electronic campaign statements. Respondents reached the \$50,000 contribution threshold during the period of July 1, 2003 through September 30, 2003. Therefore, Respondent Committee was required to file campaign statements electronically during this period, and subsequent to that period.

COUNT 1

(Failure to File Semi-Annual Campaign Statements Online or Electronically)

Respondents timely filed in paper format semi-annual statements for the following reporting periods: (1) July 1, 2003 through December 31, 2003,⁴

³ The exact date the committee reached the threshold is unknown since all contributions received by the committee during this period totaling \$2,300 were less than \$100 and therefore were not required to be itemized. However, we know that it was during this period because the committee filed an odd-year report in paper format, for purposes of Section 84200.5, although it was not required to do so since it made no contributions during the period ending September 30, 2003.

⁴ Respondents filed an odd-year report for the period July 1, 2003 through September 30, 2003 in paper format although they were not required to do so, as mentioned earlier. Respondents also filed a statement in paper format covering the period October 1, 2003 through December 31, 2003, conforming to the requirements of Section 84200.

(2) January 1, 2004 through June 30, 2004, and (3) October 1, 2004 through December 31, 2004.⁵ However, by failing to timely electronically file these statements, Respondents violated Section 84605, subdivision (b).⁶ Respondents electronically filed the first two semi-annual campaign statements on May 1, 2007. The third statement for the period October 1, 2004 through December 31, 2004 was electronically filed on June 21, 2005.

By failing to electronically file, on a timely basis, three semi-annual statements, Respondents violated Section 84605, subdivision (b). A penalty of \$1,500 for Count 1 is consistent with prior cases involving violations of late contribution reporting, combined with failure to file semi-annual statements electronically.

COUNT 2

(Failure to file a Pre-election Statement
in Paper Format and Electronically)

Respondents also failed to timely file a pre-election campaign statement in paper format and electronically for the period July 1, 2004 through September 30, 2004, which was due October 5, 2004. Respondents filed a statement in paper format on January 4, 2005, covering the period of July 1, 2004 through December 31, 2004. SOS fined respondents \$500 for failing to file this statement in paper format by the October 5, 2004 due date. Respondents ultimately filed a statement covering just the period of July 1, 2004 to September 30, 2004 in paper format on June 22, 2005 (filed as an amendment to the semi-annual statement filed on January 4, 2005). The electronic statement was filed on June 21, 2005. The SOS fined Respondent Committee \$500 for failing to file this statement electronically, which was waived.

By failing to timely file a pre-election statement in paper format and electronically for the period July 1, 2004 through September 30, 2004, Respondents violated Section 84200.7, subdivision (b) and Section 84605, subdivision (b). Based on the foregoing, an administrative penalty in the amount of \$2,500 is warranted for Count 2 since Respondents failed to timely file the pre-election statement in paper format and electronically.

⁵ The third semi-annual statement is not required to cover the period already covered by the pre-election statement filed for the period ending September 30, 2004.

⁶ For the March 2, 2004, election, the filing deadline for the campaign statement ending December 31, 2003 was January 10, but the filing deadline was extended to January 12 since the deadline fell on a Saturday. Similarly, the campaign statement ending June 30, 2004 was due July 31, 2004, but the deadline was extended to August 2, 2004. (See former Sections 84200.3 and 84200.4; repealed by Stats. 2005, Ch. 200.)

COUNTS 3 AND 4

(Failure to Electronically File Late Contribution Reports)

Respondents failed to file online or electronically three late contribution campaign reports on October 20, 2004 disclosing two contributions made by Respondents of \$1,000 and one contribution of \$2,000 on October 19, 2004. Respondents also failed to file online or electronically one late contribution campaign report on May 21, 2005, disclosing one contribution made by Respondents on May 20, 2005 of \$7,500. By failing to file these late contributions reports, Respondents violated Section 84605, subdivision (b). Count 3 pertains to the late contribution reports that were not filed on October 20, 2004 and Count 3 pertains to Respondents' failure to file the late contribution report not filed on May 21, 2005.

A fine of \$600 for Count 3 and a fine of \$1,125 for Count 4 is warranted. This amount would yield a penalty close to the amount that would be assessed under the Streamlined Late Contribution Enforcement Program. In this matter, because these were additional reporting violations, Respondents' violations did not fit under the streamlined program. Under the program, a 15 percent of the undisclosed amount would be assessed. For these two violations, Respondents failed to electronically disclose \$11,500.

CONCLUSION

This matter consists of four counts, which carry a maximum possible administrative penalty of Twenty Thousand Dollars (\$20,000). Respondents have been in existence since 1980. Therefore, Respondents should be knowledgeable about all of the Act's reporting requirements. In further aggravation, in one instance, the public was totally deprived of information about Respondents' contributions just prior to an election. This is for the pre-election period of July 1, 2004 through September 30, 2004. In addition, Respondents also failed to electronically file two other late contributions of \$1,000 subsequent to the time period Respondent Committee reached the \$50,000 threshold.

In mitigation, however, Respondents have a demonstrated pattern of timely filing required campaign statements in paper format since Respondent Committee's inception. Respondents believed the \$50,000 trigger started over every year. Once Respondent Committee was informed by SOS that the \$50,000 threshold for electronic filing had been met, Respondent Committee self-reported the violations and conducted an audit of its campaign activity to uncover other potential violations. Respondents have also hired counsel to assist them with their filing obligations under the Act. Finally, the Respondents have no prior history of violations and have cooperated fully with the Commission.

Four counts may result in a maximum penalty of up to \$20,000. However, based on the foregoing, this matter warrants an imposition of the agreed upon administrative penalty of \$5,725.